

**TESTIMONY OF  
EVAN RICHERT, DIRECTOR, STATE PLANNING OFFICE  
IN FAVOR OF LD 2099  
AN ACT TO PROVIDE FOR LIVABLE, AFFORDABLE NEIGHBORHOODS**

**Joint Standing Committee on Business and Economic Development  
Joint Standing Committee on Natural Resources**

**February 22, 2002**

Senators Martin and Shorey, Representatives Cowger and Richardson, and members of the Committees, my name is Evan Richert. I am director of the State Planning Office and am speaking on behalf of the King Administration in strong support of LD 2099, An Act to Provide for Livable, Affordable Neighborhoods. We thank the Legislature's Study Committee on Growth Management for recommending this bill for your consideration. It is a bill with the potential to benefit thousands of families in years to come.

Throughout southern and coastal Maine, including 9 housing market regions that encompass about a third of the state's towns and 44% of its families, the problem of housing that is within reach of families of average means has become intractable. As the attached chart shows, many occupations don't pay enough to afford the median priced home. In fact, many dual-working households – a full-time police officer and part-time LPN, for example – don't earn enough. The Maine State Housing Authority has documented the problem, but even without official studies the anecdotal evidence – from classified ads to conversations with first-time homebuyers – is overwhelming. The effects present themselves in 3 ways –

- First, many young families must now either forego home ownership or move farther away to rural edges, 20 or more miles from job centers, in search of land and housing they can afford. In the trade of distance for housing, these families now spend 20% of their incomes on transportation, more than they pay for food.
- Second, the cost of housing has become a deterrent to the location and expansion of business in need of employees with average wages.
- And, third, among the lowest income working households, there is growing homelessness. As of July 2001, nearly a third of persons in homeless shelters had jobs.

The problem has reached a point that not even recession or low mortgage rates have corrected the market. In the last year, despite recession, the median price of single-family homes increased by 8% statewide.

The causes of this situation undoubtedly are complex. But it comes down to, in some basic way, supply and demand. Even with only moderate growth in demand during the 1990s – increase in the number of households was only 11% statewide, and 17% in southern and coastal Maine – supply of homes did not keep pace. Within southern and

coastal Maine, the number of new households outnumbered the number of new year-round housing units by 4,000.

An important reason for the inability of supply, and especially the supply of moderately priced homes, to keep pace is that local zoning and minimum lot size laws have become unduly restrictive. Consider, for example, the zoning laws of the suburban towns in Greater Portland – and only those districts that are served by one or more public utilities and have been designated by the towns as suitable for residential growth (that is, excluding rural areas where you might expect large lots to be required):

- Range of required minimum lot sizes: 15,000 SF to 60,000 SF
- Average required minimum lot size: 39,500 SF
- Range of required road frontage: 50 feet to 200 feet
- Average required road frontage: 115 feet

To put these in perspective, the area of a football field is 48,000 square feet.

These dimensional requirements drive costs, especially in urban and suburban areas where infrastructure, such as utilities and sidewalks, are required. On average, according to home builders in southern Maine, in the close-in suburbs the cost of a prepared lot – provided with road, water and sewer, curbs and proper drainage, electrical lines, etc. – is in the range of \$250 to \$350 per front foot. That means that a lot with a required frontage of 100 feet dictates an investment of \$30,000; of 150 feet, \$45,000. Add to that the raw land cost and a minimal profit, and before you lay a foundation, the cost of the lot is in the range of \$45,000 to \$60,000, and higher if there are impact fees. Homes on such lots bottom out in the mid-\$100 thousands and go up from there. These are simply beyond the reach of families with median incomes or less.

We might accept this consequence if the restrictive standards were essential for public health and safety, which is, after all, the purpose of zoning. But they are not. The typical dimensional requirements and minimum lot sizes in many zoning and minimum lot size ordinances far exceed those required for sanitation, fire safety, protection from crowding, proper drainage, access to sunlight, protection of property values, and good circulation. Remember, we are here talking not about those areas of towns designated to remain rural, where agricultural and similar zoning may be needed to protect working lands or wildlife; but rather, areas that towns have designated for or where they explicitly permit growth. Gradually, over the last 30 years, zoning with its primary attention to public health and safety has been replaced with unsupportable, often arbitrary or at least not well understood requirements that, in parts of Maine, have the effect of excluding persons of modest means. Ironically, they also spread out development and damage the environment in ways that are hard to control.

The bill before you tries to overcome this exclusionary zoning in the most incremental way possible:

- It would apply only in those labor markets where there is a documented problem for affordable housing. Of 35 defined areas, 9 have documented problems.
- It would apply only to the dimensional requirements of zoning and minimum lot size ordinances that bear most directly on cost, such as lot size, frontage, and street dimensions, and to exclusions of small-scale apartments. If a proposed development meets all other standards, it could not be barred from a town simply on the basis of dimensional standards in excess of those required for public health and safety.
- It would not replace the local planning board or interfere with local subdivision or site plan reviews or with a town's ability to review and even turn down a project because of its impacts—for example, impacts on groundwater or on a nearby traffic intersection--that can't be mitigated. If a community has a comprehensive plan that designates areas of growth, the development would have to be in or adjacent to them. And the bill would require any developer who wishes to take advantage of this procedure to both make at least 25% of lots affordable to families of moderate means and meet traditional neighborhood design standards that include open space and landscaping. These standards are subject to the approval of the Legislature. They will produce neighborhoods that are aesthetic assets to the community. The sole role of the proposed State Affordable Neighborhood Development Review Board contained in this bill is to certify that a proposed development meets the requirements needed to qualify under the legislation. The actual review and approval of the subdivision would continue to rest with the local planning board.

There are times when certain problems are beyond the capacity of a town to deal with them, and in not doing so, the effects spill over their boundaries and affect interests throughout a region or even the state. The Legislature has recognized this in the case of shoreland zoning, mobile home parks and manufactured housing, and group homes for persons with mental retardation or illness. State law directs land use policy and even detailed standards in each of these situations, and these laws and standards have not unduly upset and certainly have not replaced the general home rule powers. They simply recognize the state's vital interest in these areas, and the quest for affordable housing for a workforce in regions where close to half of the state's population lives is just that: a vital state interest.

Attached to my testimony is a set of friendly amendments to LD 2099. These amendments represent the consensus of the Administration, the Maine State Housing Authority, developers, realtors and builders, and community action agencies and other representatives of low- and moderate-income persons. Among other things, they would increase the proportion of lots that need to be affordable from 25% to 30%, put the lot size threshold at 5,000 square feet, exempt precertified developments from building cap ordinances, and allow consideration of developments that use engineered community waste water disposal systems as well as public sewer systems.

The Administration urges your support. Thank you.

**Examples of Hourly Wages Needed and Earned  
To Afford Median-Priced Home**

<b>Sample Markets</b>	<b>Wage Needed/Hr</b>
Belfast area	\$22.19
Biddeford area	\$26.46
Ellsworth/Bar Harbor area	\$19.60
Kittery-York area	\$33.37
Portland area	\$25.50
Rockland area	\$20.01
<b>Sample Occupations</b>	<b>Wage Earned/Hr.</b>
Police patrol officer	\$12.54
Police detective	\$15.85
Elementary teacher	\$16.52
Plumber	\$15.01
Truck driver (tractor-trailer)	\$11.18
Registered nurse	\$19.46
Licensed practical nurse	\$13.18
Auto mechanic	\$11.16
Millwright	\$16.44
Retail salesperson	\$7.48-\$10.41
Computer operator	\$11.39

**Sources:**      Wages needed – Maine State Housing Authority  
                      Wages earned -- “Maine Occupational Wages,” Maine Department  
                      of Labor